UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Docket no: 18CV1633

Lidya Maria Radin,

Plaintiff/claimant, a living woman,

v.

Judge Robert Joseph Sullivan, a living man,
in his personal capacity, and,

Geoffrey Steven Berman, a living man,
in his personal capacity, and,

John and Jane Does 1-20,

Defendants/respondents.
_____/

VERIFIED COMPLAINT AND JURY DEMAND

VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT, DECLARATORY AND INJUNCTIVE RELIEF AND DAMAGES

1. Plaintiff, sui juris, pro per, pro se, petitions this Court for a preliminary and permanent injunction, declaratory relief, award of damages, and complains against Defendants, Robert Joseph Sullivan, Geoffrey Steven Berman, and John and Jane Does, on personal knowledge.

INTRODUCTION

2. This action arises out of Defendant Sullvian's intentional failure and refusal to provide a mandatory hearing upon Plaintiff's requests pursuant to the Federal Rules of Evidence, Rule 201, taking judicial notice, during a so-called "appeal" in front of federal district Judge Sullivan of a so-called "lower district court case/ magistrate court case " / Central Violations Bureau petty offense case, USA v. RADIN, docket no: 16-cr-528, and Defendant Berman's colluding and conspiring with Defendant Sullivan in furtherance of

an organized conspiracy aimed at violating the statutory and constitutionally-protected and guaranteed rights of Plaintiff and others.

JURISDICTION AND VENUE

3. Plaintiff claims federal jurisdiction pursuant to Article 3, section 2 of the federal constitution which extends jurisdiction to cases arising under the federal constitution, in particular, the due process protection of the 5th amendment, and pursuant to federal question jurisdiction, 28 U.S.C. section 1331, and pursuant to federal statute, the Federal Rules of Evidence, Rule 201, Judicial Notice: a hearing is mandatory pursuant to judicial notice, Federal Rules of Evidence, Rule 201, when requested by a party, here, the Plaintiff, and pursuant to 28 U.S.C. section 2201, Declaratory Judgment Act.
4. Plaintiff brings this action against Robert Joseph Sullivan pursuant to Title 28 U.S.C. section 1331, in claims arising from violations of federal constitutional rights guaranteed by the Fifth amendment, due process, of the federal constitution and subject to redress pursuant to Bivens v. Six Unknown Narcotics Agents, 403 U.S. 388 (1971).
5. Venue is appropriate in this district under 28 U.S.C. section 1391(b)(2), a civil action may be brought in a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, and under 28 U.S.C. section 1391(e)(1)(B), because a substantial part of the events or omissions giving rise to the claims occurred in this district by federal officers acting under color of legal authority, and under 28 U.S.C. section 1391(e)(1)(C), where the plaintiff resides.
6. This action is being brought within the three-year statute of limitations.
7. Personal jurisdiction is proper in this Court because the acts and omissions giving rise to this Complaint were performed within this forum by Defendants in furtherance of an organized conspiracy aimed at violating the statutory and constitutionally-protected and guaranteed rights of Plaintiff and others.

PARTIES

8. Plaintiff, Lidya Maria Radin, is a natural, living, physically-disabled woman with spinal injuries and a potentially life-ending physical medical condition, residing at 203 W. 107th Street, #8A, New York, New York, 10025.

9. Robert Joseph Sullivan is a federal district judge who broke the law. By breaking the law Sullivan ousted the federal district court of jurisdiction in a so-called "appeal" of the so-called "lower magistrate case" , USA v. RADIN, docket no: 16-cr-528, lost immunity, and ceased to function as a judge as breaking the law, and intentionally denying and depriving constitutionally-protected and guaranteed rights are not judicial functions.
10. Accordingly, Defendant Robert Joseph Sullivan, a natural, living man is being sued in his personal capacity for acts and omissions in furtherance of an organized conspiracy aimed at violating the statutory and constitutionally-protected and guaranteed rights of Plaintiff and others.
11. Geoffrey Steven Berman is the Acting U.S. Attorney in the Southern district of New York. By colluding and conspiring with Robert Sullivan in breaking the law in a so-called "appeal" of the so-called "lower magistrate case", USA v. RADIN, docket no: 16-cr-528, Berman lost disinterest and immunity, and ceased to function as a prosecutor as breaking the law, and denying and depriving constitutionally-protected and guaranteed rights are not prosecutorial functions.
12. Accordingly, Geoffrey Steven Berman, a natural, living man is being sued in his personal capacity for colluding and conspiring with Defendant Sullivan in furtherance of an organized conspiracy aimed at violating the statutory and constitutionally-protected and guaranteed rights of Plaintiffs and others.

IRREFUTABLE FACTUAL ALLEGATIONS / INTENTIONAL VIOLATION OF PLAINTIFF'S DUE PROCESS RIGHTS/ STATEMENT OF THE CASE.

13. Federal Judge Robert Joseph Sullivan in the Southern district of New York purported to hear an " appeal" of a "lower district court case/ magistrate case" / Central Violations Bureau petty offense case, USA v. RADIN, docket no: 16-cr-528, in the Southern district of New York.
14. The "lower district/ magistrate case" is fatally flawed for a number of reasons, did not obtain the subject-matter jurisdiction of the federal district court or personal jurisdiction over RADIN such that the "lower district court/ magistrate court / Central Violations Bureau petty offense court" could not transfer jurisdiction to the so-called higher court, the federal district court, for the purposes of an appeal in front of Judge Robert Sullivan.

15. Accordingly, on February 1, 2018, on February 8, 2018, and on February 12, 2018 Plaintiff requested that Judge Sullivan provide Plaintiff with a hearing in connection with taking judicial notice of the records of his own Court pursuant to the Federal Rules of Evidence, Rule 201, which demonstrated irrefutably that the "lower district court / magistrate court/ Central Violations Bureau petty offense case" was and is fatally flawed, did not obtain the subject-matter jurisdiction of the federal district court or

personal jurisdiction over RADIN, and that Department of Justice officials obstructed justice, destroyed evidence, refused to comply with discovery requests in violation of Brady, Brady v. Maryland, 373 U.S. 83 (1963), engaged in felony sedition, 28 U.S.C. section 2384, engaged in honest services fraud, 18 U.S.C. section 4, defrauded the United States in malicious prosecution, obtained an unconstitutional conviction which must be set aside, and that the court clerks, Vincent Babino and Daniel Ortez, destroyed paperwork from Plaintiff in the "lower district court/magistrate court" that they accepted for filing, a crime in violation of 18 U.S.C. section 2071, rendering the Southern district of New York a court of no record, among other things.

16. A hearing is mandatory when requested by Plaintiff, a party, in connection with the Federal Rules of Evidence, Rule 201, judicial notice, and can be requested at any time by a party even for the first time during an appeal.

17. See the attached February 12, 2018, cover-letter to Judge Sullivan, and **"Defendant's Demand for Judicial Notice and Mandatory Hearing pursuant to Federal Rules of Evidence, Rule 201"** filed concurrently with **"Notice Setting a Mandatory Hearing Date Pursuant to Federal Rules of Evidence, Rule 201, Judicial Notice"** and **"Declaration in Support of Notice of Hearing in Connection with Defendant's Demand to take Judicial Notice, Federal Rules of Evidence, Rule 201"** and example of this Court taking Judicial Notice, Federal Rules of Evidence, Rule 201, when requested by attorneys for Google, in THE AUTHORS GUILD et al v. GOOGLE, INC, docket no: 1:05-cv-08136-DC.

18. Judge Sullivan intentionally failed and refused to provide Plaintiff with a mandatory hearing upon request, three times, pursuant to Federal Rules of Evidence, Rule 201, taking judicial notice during an "appeal" of USA v. RADIN, docket no: 16-cr-528 (even though an appeal was not possible, ultimately, and could only be entertained for the limited purpose of confirming that Defendant Sullivan did not have jurisdiction by way of taking Judicial Notice, for example), and in willfully and deliberately failing and refusing to obey federal statute to take Judicial Notice, Judge Sullivan intentionally deprived Plaintiff of her constitutionally-protected and guaranteed right to due process, ousted the Court of jurisdiction (even though the so-called "higher court" never acquired jurisdiction from the so-called " lower district/ magistrate court"), lost immunity, obstructed justice, abused his power, and engaged in honest services fraud.

19. Geoffrey Steven Berman colluded and conspired with Robert Joseph Sullivan.

20. Plaintiff's constitutionally-protected and guaranteed rights to due process and Plaintiff's right to a mandatory hearing upon request pursuant to the Federal Rules of Evidence, Rule 201, judicial notice, are clearly-established rights.

21. As a former federal prosecutor and as a federal district judge, Robert Joseph Sullivan knew or should have known that his acts and omissions in intentionally failing and refusing to provide Plaintiff with a mandatory hearing upon request pursuant to Federal Rules of Evidence, Rule 201, Judicial Notice, intentionally, willfully, and deliberately violated Plaintiff's clearly-established right to due process under the 5th amendment of the federal constitution and Plaintiff's clearly-established right to a mandatory hearing upon request pursuant to the Federal Rules of Evidence, Rule 201, judicial notice.

22. Geoffrey Steven Berman knew or should have known that his acts and omissions in colluding and conspiring with Robert Joseph Sullivan in deliberately, willfully, and intentionally failing and refusing to provide Plaintiff with a mandatory hearing upon request pursuant to Federal Rules of Evidence, Rule 201, judicial notice, intentionally, willfully, and deliberately violated Plaintiff's clearly-established right to due process under the 5th amendment of the federal constitution and Plaintiff's clearly-established right to a mandatory hearing upon request pursuant to the Federal Rules of Evidence, Rule 201, judicial notice.

23. Plaintiff demands trial by jury.

WHEREFORE Plaintiff moves this Court for the following relief:

A. Issue preliminary and permanent injunctive relief commanding the Defendants to cease and desist because by their unlawful acts and omissions Defendants ousted the Court of jurisdiction in the "appeal" of USA v. RADIN, docket no: 16-cr-528 such that Defendants cannot proceed.

B. Issue declaratory relief resolving the " lower district magistrate case/ Central Violations Bureau petty offense case" and the so-called district court "appeal" in Plaintiff's favor with prejudice based on Defendants' unlawful and criminal acts against Plaintiff including obstruction of justice.

C. Issue other relief as is right and just.

D. Award Plaintiff the costs of her litigation.

E. Award Plaintiff punitive damages.

F. Award Plaintiff actual damages.

G. Relief from all orders made in violation of law in connection with the so-called "lower district court/ magistrate court " / Central Violations Bureau petty offense case, USA v. RADIN, docket no: 16-cr-528, and relief from all orders made by Robert Joseph Sullivan.

Respectfully submitted,

Lidya Maria Radin
21- February -2018

Lidya Maria Radin
c/o Friendly
203 W. 107th Street, #8A
New York, New York 10025
Telephone: 516-445-4390; email: radin.lidya2@gmail.com

STATEMENT OF VERIFICATION UNDER 28 U.S.C. SECTION 1746

I declare under penalty of perjury that I have read the above complaint and it is true and correct to the best of my knowledge.

Lidya Maria Radin 21- February -2018

Defendants contact Information:

Robert Joseph Sullivan
Southern district of New York, federal district court
40 Foley Square
New York, New York 10007
Courtroom: 905; Chambers phone & Deputy phone: (212) 805-0264

Geoffrey Steven Berman
U.S. Attorney's Office
1 St. Andrew's Plaza
New York, New York 10007

Exhibit One

-Plaintiff's third request for a hearing pursuant to Federal Rules of Evidence, Rule 201, judicial notice.

Lidya Maria Radin
c/o Friendly
203 West 107th Street, #8A
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Judge Richard Joseph Sullivan
Southern district of New York, federal district court
40 Foley Square
New York, New York 10007
Courtroom: 905; Chambers phone & Deputy phone: (212) 805-0264

February 12, 2018

RE: Your 2/6/2018 Order violating my constitutionally-protected and guaranteed right to due process in connection with my demands for Judicial Notice and a mandatory hearing pursuant to the Federal Rules of Evidence, Rule 201, in USA v. RADIN, docket no: 16-cr-528.

Sir:

This communication is copied to attorneys at the Legal Aid Society in New York City who wondered why money was being provided to the Federal Defenders to defend New Yorkers like Me, victimized by out-of- control private contract security guards in a privately-owned building in the City of New York where state law applies pursuant to propriety jurisdiction, when, in fact, the Federal Defenders colluded and conspired in executing these crimes, as detailed in the points I made in my February 1, 2018 and my February 8, 2018 communications to this Court in connection with Judicial Notice. Further, I direct this Court's attention to AUSA Joseph Gribko's November 1, 2017 letter to the federal district court in Trenton, New Jersey wherein AUSA Gribko made admissions of guilt: that the federal government is running a scam, a con, a racketeering enterprise involving Central Violations Bureau tickets and using the federal district courts as a front for this criminal enterprise.

Brief statement of the immediate issue: I write to you today in connection with your 2/6/2018 Order violating my constitutionally-protected and guaranteed right to due process in connection with my demands for Judicial Notice and a mandatory hearing pursuant to the Federal Rules of Evidence, Rule 201, as contained in my February 1, 2018 and February 8, 2018 communications with this Court.

In specific, I direct your attention to your erroneous statement, " Other arguments in Defendant's letter [February 1, 2018 letter], they are not properly before the Court, the Court

will not consider them, " and your erroneous statement that you will "only consider arguments in opening brief."

I direct your attention to ***Day v. Moscow*, 955 F.2d 807, 811 (2nd Cir.1992) which is controlling upon you and this Court and which states that you and this Court can take Judicial Notice of the records of your own Court, and indeed, you must take Judicial Notice and provide Me with a hearing upon my request(s), Federal Rules of Evidence, Rule 201, Judicial Notice.**

These records show that the federal prosecutors, Stephanie Lindsay-Lake and Michael Ferrara conspired and colluded with Magistrates Moses, Freeman, Peck, and Pitman to commit crimes against Me and to defraud taxpayers in malicious prosecution.

I direct your attention to the points I made in my third, now, demand for a mandatory hearing pursuant to the Federal Rules of Evidence, Rule 201, see the enclosed "Demand for Judicial Notice & Mandatory hearing pursuant to the Federal Rules of Evidence, Rule 201" , my "Notice Setting a mandatory Hearing date…" , and my "Declaration in Support…".

I remind this Court that this Court is supposed to accept the submissions of a Pro Se, Pro Per, Sui Juris litigant based on substance. Your only beef with Me appears to be based on appearance, not substance; thus, please find enclosed a more formally-drafted "Demand for Judicial Notice and mandatory hearing…" and " Notice Setting a Mandatory Hearing date…" that should satisfy you as now, as my third demand for Judicial Notice and a mandatory hearing pursuant to the Federal Rules of Evidence, Rule 201, Judicial Notice.

Please find enclosed, as an example, a demand from Google's attorneys that this Court take Judicial Notice. It appears that this Court is discriminating against Pro Se, Pro Per, Sui Juris litigants like Me, because, it appears that Google's attorneys had no problem when they demanded Judicial Notice be taken in their case.

Yours,

Lidya Maria Radin

Lidya Maria Radin

Lidya Maria Radin, sui juris
c/o Friendly
203 W. 107th Street, #8A
New York, New York 10025
Mobile: 516-445-4390; email: radin.lidya2@gmail.com

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USA,
Plaintiff,

v.

RADIN,

Defendant/claimant.
_____/

Docket no: 16-cr-528

DEFENDANT'S DEMAND FOR JUDICIAL NOTICE AND MANDATORY HEARING PURSUANT TO FEDERAL RULES OF EVIDENCE, RULE 201.

Filed concurrently with Notice Setting a Mandatory Hearing date.

Under the Federal Rules of Evidence, Rule 201, Defendant/claimant Lidya Maria Radin, a living woman, falsely accused and wrongfully convicted, demands that this Court take Judicial Notice of its own records; see ***Day v. Moscow*, 955 F.2d 807, 811 (2nd Cir.1992) which is controlling:** ***"However, when all relevant facts are shown by the court's own records, of which the court takes notice... ",*** Day v. Moscow, 955 F.2 807, 2nd Cir, 1992.

Federal Rule of Evidence, Rule 201. Judicial Notice of Adjudicative Facts:

(a) Scope. This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

(b) Kinds of Facts That May Be Judicially Noticed. The court may judicially notice a fact that is not subject to reasonable dispute because it:

(1) is generally known within the trial court's territorial jurisdiction; or

(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

(c) Taking Notice. The court:

(1) may take judicial notice on its own; or

(2) must take judicial notice if a party requests it and the court is supplied with the necessary information.

(d) Timing. The court may take judicial notice at any stage of the proceeding.

(e) Opportunity to Be Heard. On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard.

(f) Instructing the Jury. In a civil case, the court must instruct the jury to accept the noticed fact as conclusive. In a criminal case, the court must instruct the jury that it may or may not accept the noticed fact as conclusive.

Because "[t]he court may take judicial notice at any stage of the proceeding," it may be taken for the first time on appeal. Fed. R. Evid. 201; *see Bryant v. Carleson*, 444 F.2d 353, 357 (9th Cir. 1971).

Courts may also take judicial notice of public records. *Cachil Dehe Band of Wintun Indians of Colusa Indian Community v. State of Calif.*, 547 F.3d 962, 969 n.4 (9th Cir. 2008). Judicial notice is particularly appropriate for the court's own records in prior litigation related to the case before it. *Amphibious Partners, LLC v. Redman*, 534 F.3d 1357, 1361–1362 (10th Cir.2008), district court was entitled to take judicial notice of its memorandum of order and judgment from previous case involving same parties.

Courts may take judicial notice of facts whose "existence is `capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.' " *W. Radio Servs. Co. v. Qwest Corp.*, 530 F.3d 1186, 1192 n. 4 (9th Cir. 2008). It must be taken when a party requests it and supplies all necessary information. Fed.R.Evid. 201. "Judicial notice" is the court's recognition of the existence of a fact without the necessity of formal proof. *See United States v. Harrison,* 651 F.2d 353, 355 (5th Cir.1981); *Castillo-Villagra v. I.N.S.*, 972 F.2d 1017, 1026 (9th Cir.1992). Facts proper for judicial notice are those facts not subject to reasonable dispute and either "generally known" in the community, or "capable of accurate and ready determination" by reference to sources whose accuracy cannot be reasonably questioned. Fed. R. Evid. 201; *MGIC Indem. Corp. v. Weisman,* 803 F.2d 500, 504 (9th Cir.1986) (court may take judicial notice of official records and reports. The court need not accept as true allegations that contradict facts which may be judicially noticed by the court.)

Judicial Notice can be taken of the actions of the parties. Judicial Notice is properly taken to show the acts of the parties: that a complaint was filed, that there was a return of service, that stipulations were made. Werner v. Werner, C.A. 3d, 2001, 267 F.3d. 288, 295, whether litigant

disclosed certain material in state court discovery. U.S. v. Daychild, C.A. 9th, 2004, 357 F. 3d 1082, 1098, that grand jury had properly returned indictment. S.E.C. v. American Captial Investments, Inc., C.A. 9th, 1996, 98 F.3d 1133, 1140, that registered agent for party appeared as attorney in district court. ***ITT Rayonier Inc., v. U.S., C.A. 5th, 1981, 651 F.2d 343, 345 n. 2, in determining whether there has been a settlement which would render case moot, appellate court could take Judicial Notice of its own records or those of inferior courts***, as here. ***U.S. v. Jessie Lee Jackson, C.A. 8th, 1981, 640 F.2d 614, 617, where defendant was charged with perjury at a section 2255 hearing, in determining materiality of statements, court could properly take Judicial Notice of transcript of the hearing:*** *" The court could "take judicial notice, whether requested or not * * * of its own records and files, and facts which are part of its public records * * *. Judicial notice is particularly applicable to the court's own records of prior litigation closely related to the case before it. St. Louis Baptist Temple, Inc. v. F.D.I.C., 605 F.2d 1169, 1172 (10th Cir. 1979). See Woodmar Realty Co. v. McLean, 294 F.2d 785 (7th Cir. 1961), cert. denied, 369 U.S. 803, 82 S. Ct. 643, 7 L. Ed. 2d 550 (1962). "*

Accordingly, and as is ***my constitutionally-protected and guaranteed right to due process***, I reiterate my demands for a mandatory, open, public hearing pursuant to this Court taking Judicial Notice, Federal Rule of Evidence, Rule 201, and reiterate the points made in my February 1, 2018, and February 8, 2018 communications with this Court, and add additional points, including additional points from **USA v. Davis, 726 F3d 357 [2nd Cir 2013]**, as follows.

From my February 1, 2018 communication:

" My demand for a mandatory hearing in connection with taking Judicial Notice of the records in your own court, Federal Rules of Evidence, Rule 201.

(B) Notwithstanding, take Judicial Cognizance and Judicial Notice that DOJ officials broke the law and because DOJ officials broke the law, over and over and over again in felony sedition, 18 USC section 2384, they have no credibility on which to base a criminal conviction against Me and immediately terminate this case in my favor, with prejudice. The following facts are a matter of public record of which you can take Judicial cognizance and Judicial Notice. Further, I demand a hearing in connection with taking Judicial Notice, Federal Rules of Evidence, Rule 201. A hearing is mandatory when requested by Me, a party.

1. From January 28, 2016, to August 3, 2016, take Judicial Notice and judicial cognizance that court records reveal that there was no case opened against Me in the federal district court in the Southern district of New York. Yet, Magistrate Debra Freeman conducted a proceeding without authority and without jurisdiction on July 7, 2016, when there was no open case against Me. This proceeding was unlawful, was **Coram Non Judice**, not before a judge. Accordingly, I have 42 USC section 1983 claims against Magistrate Freeman for which Freeman has no immunity. AUSA Lake provided the

July 7, 2016, transcript to you in her January 18, 2018 submission, as an exhibit, as evidence of Lake and Ferrara colluding and conspiring in a fraud on the Court. Lake and Ferrara have no immunity against my claims either.

2. The Central Violations Bureau ticket that was written on Me on **January 28, 2016**, alleging that I assaulted a federal officer, private contract security guard, Frank Pena, 18 USC section 111(a)(1), a Class A misdemeanor, was never filed in federal district court. A case was never opened on this ticket. This ticket is not a summons from the federal district court that could compel my appearance, because, among other fatal flaws, this ticket did not have a return date on it. Further, Notice to Appear letters from the Central Violation Bureau, an Article I agency, located in Texas, are not summonses from the federal district court, an Article III, constitutional court, that could compel my appearance, because, among other fatal flaws, Notice to Appear letters do not contain statements of probable cause. A summons from the federal district court in the Southern district of New York was never obtained to compel my appearance. Yet, a Central Violations Bureau ticket, fatally flawed, and Notice to Appear letters, also fatally flawed, were used as a pretext to unlawfully demand my appearance on May 17, 2016 (with Magistrate Barbara Moses), and on June 21, 2016 (with Magistrate Debra Freeman), on June 24, 2016 (again, with Magistrate Debra Freeman) and, again, on July 7, 2016 (again, with Magistrate Debra Freeman), months after January 28, 2016. Notice to Appear letters and threats of false arrest and false imprisonment made by Magistrates Freeman, Peck, and Pitman were used to unlawfully demand my appearance in federal district court even after I lawfully rejected the Notice to Appear letters.
3. In fact, on January 28, 2016, as shown in a DOJ video viewed by Magistrate Henry Pitman, private-contract security guard Frank Pena assaulted Me, used excessive force, and arrested Me without a warrant. I was in handcuffs and not free to leave, as seen in the video. Court Security officer/ private contract guard/ agent of the U.S. Marshals Frank Pena and all the DOJ personnel involved did not bring Me before a magistrate ***" without unnecessary delay "*** in violation of the Federal Rules of Criminal Procedure, Rule 5 (a)(1)(A), Initial Appearance, Appearance Upon an Arrest, and in violation of my constitutionally-protected and guaranteed rights under the 4th amendment [protection against unreasonable seizures], under the 5th amendment [due process] and under the 14th amendment [equal protection] of the federal constitution.

Rule 5 (a)(1)(A) Initial Appearance, Appearance Upon Arrest, states, in pertinent part:

" A person making an arrest within the United States must take the defendant without unnecessary delay before a magistrate judge…".

Take Judicial Notice that court records show that I was not taken ***"without unnecessary delay before a magistrate judge"*** on January 28, 2016 after Frank Pena arrested Me

without a warrant. Because Frank Pena broke the law, he has no credibility. Because all the DOJ officials involved broke the law, they have no credibility. All of the prosecutors' witnesses have no credibility, because they broke the law.

4. A Complaint, the initiating document in a criminal case, was not filed in the federal district court ***"promptly"***, in violation of the Federal Rules of Criminal Procedure, Rule 5(b):

> ***"Arrest Without a Warrant. If a defendant is arrested without a warrant, a complaint meeting Rule 4(a)'s requirement of probable cause must be promptly filed in the district where the offense was allegedly committed."***

"Promptly" was defined by the United States Supreme Court as to mean within two days. In this case, take Judicial cognizance and Judicial Notice that a Complaint was not filed within two (2) days of January 28, 2016, the arrest without a warrant.

5. Take Judicial Notice that court records reveal that after I was released on my own recognizance on January 28, 2016 with a Central Violations Bureau ticket alleging a Class A misdemeanor, 18 USC section 111(a)(1), a Preliminary hearing was not provided to Me within twenty-one (21) days, in violation of the Federal Rules of Criminal Procedure, Rule 5.1(c), Preliminary hearing:

> ***" (c) SCHEDULING. The magistrate judge must hold the preliminary hearing within a reasonable time, but no later than 14 days after the initial appearance if the defendant is in custody and no later than 21 days if not in custody. "***

I was prejudiced (harmed) because I was precluded, unlawfully, from preserving almost an hour of video tape from the January 28, 2016 incident through the Department of Homeland Security, among other things. The video tape of the January 28, 2016 incident viewed by Magistrate Pitman was missing almost an hour because the U.S. Marshal Service through its agent, Deputy U.S. Marshal Jason W. Brasgalla, destroyed this evidence. Take Judicial Notice that Deputy U.S. Marshal Jason W. Brasgalla admitted and confessed on the witness stand that he destroyed this evidence.

6. Take Judicial Notice that court records reveal that an Information or Indictment was not filed in the federal district court within thirty (30) days, in violation of the Speedy Trial Act. The Speedy Trial clock started ticking from the moment of the arrest without a warrant on January 28, 2016.

7. Yet, on May 17, 2016 (with Magistrate Barbara Moses), on June 21, 2016 (with Magistrate Debra Freeman), on June 24, 2016 (with Magistrate Debra Freeman) and, again, on July 7, 2016 (with Magistrate Debra Freeman) my presence was required, using a fatally-flawed Central Violations Bureau ticket as a pretext. All the protections, by law, that were to be provided to Me within thirty (30) days of the arrest without a warrant, were not provided such that by March 3, 2016, at least, no criminal prosecution against Me could have moved forward, by operation of law. Yet, without authority and

without jurisdiction Magistrates Moses and Freeman purported to hold proceedings from January 28, 2016 to August 3, 2016, when a case was not opened in the federal district court. The only thing that Magistrates Moses and Freeman could have done on May 17, 2016, on June 21, 2016, on June 24, 2016 and on July 7, 2016 was declare that there was no case against Me for want of prosecution. Furthermore, because all the DOJ officials, and their agents involved in this case broke the law, they have no credibility on which to sustain a criminal conviction against Me.

8. Central Violations Bureau in Texas is not an Article III, constitutional court. It is an Article I agency. A January 28, 2016 ticket "filed" at the Central Violations Bureau, an Article I agency, does not open a case in an Article III, federal district court. If, however, for the sake of argument, a case was open, then, the so-called "assignment clerk" at the Central Violations Bureau in Texas was required by law to assign a Class A misdemeanor to a federal district judge, an Article III, constitutional judge, absent my consent to have a magistrate judge, a non-Article III judge, hear the January 28, 2016 ticket alleging a Class A misdemeanor, assault on a federal officer. Notwithstanding, ultimately, it was revealed that private contract guard, Frank Pena, was not a federal officer: the prosecutors failed to charge a crime.
9. Court records reveal that I never consented to have a Magistrate judge, a non-Article III, non-constitutional judge, hear a Class A misdemeanor, on May 17, 2016 (with Magistrate Barbara Moses), on June 21, 2016 (with Magistrate Debra Freeman), on June 24, 2016 (with Magistrate Debra Freeman), and, again, on July 7, 2016 (again, with Magistrate Debra Freeman). Yet, Magistrates Moses and Freeman proceeded without authority, without jurisdiction, without my consent, and in violation of the Federal Rules of Criminal Procedure, Rule 5.1(a)(5).

Federal Rules Criminal Procedure, Rule 5.1 - Preliminary Hearing, states:

(a) In General. *If a defendant is charged with an offense other than a petty offense, a magistrate judge must conduct a preliminary hearing unless… **(5)** the defendant is charged with a misdemeanor and consents to trial before a magistrate judge.*

Moreover on these dates, all critical deadlines on the January 28, 2016 Central Violations Bureau ticket alleging a Class A misdemeanor, had already passed such that the prosecutors could not proceed, by operation of law.

10. Take Judicial Notice and judicial cognizance that on July 7, 2016, Magistrate Debra Freeman could not proceed because a case was not open in the federal district court. The only thing that Magistrate Freeman could have done on July 7, 2016 was to state the irrefutable fact that the case against Me could not proceed for want of prosecution. Instead, without authority, without jurisdiction, without my consent to have a magistrate hear a Class A misdemeanor, without even an open case, Magistrate Freeman made certain orders, in a case that did not even exist, to prevent Me from conducting my

business at the Clerk of Court's office. Had I gone to the Clerk's office, unmolested, to conduct my business, which included this case and others, this criminal case against Me would have been terminated in my favor. Instead, in retaliation, two more Central Violations Bureau tickets were generated against Me on July 7, 2016.

11. Take Judicial Notice of the records in your own court that show Homeland Security Officer V. Samuel did not bring Me without unnecessary delay to a judge in violation of the Federal Rules of Criminal Procedure after he arrested Me without a warrant on July 7, 2016. Officer Samuel admitted and confessed that he arrested Me on July 7, 2016, and did not bring Me to a judge. Because Homeland Security Officer Samuel broke the law, he has no credibility.
12. Take Judicial Notice and judicial cognizance of the open, public records of the New York State legislature and of the Governor's office and of the open, public records of Congress that the steps that are supposed to be taken for the federal government to acquire "concurrent criminal jurisdiction" at 500 Pearl Street were not taken.
13. On August 3, 2016, prosecutors purported to "supersede" the three Central Violations Bureau tickets with an Information. Take Judicial Notice and judicial cognizance of the records of your own court, that these tickets could not be "superseded" because these tickets were never filed in the federal district court. It is absurd to claim that tickets that do not and that did not exist in the federal district court could be "superseded".
14. Take Judicial Notice and judicial cognizance of the records in your own court that show the charge 18 USC section 111(a)(1), a Class A misdemeanor, on the January 28, 2016 Central Violations Bureau ticket, was dropped by the prosecutors giving evidence of malicious prosecution. This charge was resolved in my favor under circumstances that tended to show my innocence.
15. Take Judicial Notice and judicial cognizance of the records in your own court that show the August 3, 2016 Information is fatally flawed. It did not obtain the subject-matter jurisdiction of the Court. Count One does not charge a crime. 18 USC section 113 charges a punishment, not a crime. Also, the jurisdiction of the 500 Pearl Street courthouse is not within the **"special maritime and territorial jurisdiction of the United States"** as per Regional Counsel for the General Services Administration, Carol Latterman, and the U.S. Attorney's manual. Subject-matter jurisdiction cannot be waived. Further, jurisdiction cannot be obtained through trickery and fraud. In addition, the 8/3/2016 Information was not served lawfully on Me, as revealed by court records of which you can take Judicial Notice.
16. Take Judicial Notice of the records in your own court that reveal that on August 10, 2016, Magistrate Freeman took cognizance of the Information, Information that did not obtain the subject-matter jurisdiction of the Court (18 USC section 113), applied her judicial mind, and threatened Me with arrest, unlawfully. Take Judicial Notice of the records in your own court that reveal that on August 10, 2016, Freeman acted without jurisdiction and without authority.

17. Take Judicial Notice of the records in your own court that reveal that on August 26, 2016, Magistrate Peck took cognizance of the Information, Information that did not obtain the subject-matter jurisdiction of the Court (18 USC section 113), applied his judicial mind, and employing threats to falsely arrest and falsely imprison Me obtained a Bond on Me. That Bond is built on the Information, the underlying document. The Information did not obtain the subject-matter jurisdiction of the Court (18 USC section 113, charges a punishment, not a crime). The Bond is unlawful as it is based/built on the unlawful Information.
18. Take Judicial Notice of the records in your own court that reveal that on August 26,2016 Magistrate Peck acted without jurisdiction and without authority.
19. Take Judicial Notice of the records in your own court that reveal that on September 1, 2016, Magistrate Henry Pitman took cognizance of the Information, an Information that did not obtain the subject-matter jurisdiction of the Court (18 USC section 113 charges a punishment, not a crime), applied his judicial mind, and threatened Me with false arrest and false imprisonment.
20. Take Judicial Notice and judicial cognizance of the records in your own court that show that on September 1, 2016, Magistrate Pitman acted without subject-matter jurisdiction, and, without authority.
21. On September 26, 2016, the prosecutors dropped the charge 18 USC section 113, again, giving evidence of malicious prosecution. This charge was resolved in my favor under circumstances that tended to show my innocence.
22. On September 26, 2016, the prosecutors purported to "supersede" the Information with a "Superseding Information". It is impossible to "supersede" an Information that did not obtain the subject-matter jurisdiction of the Court.
23. Subject-matter jurisdiction cannot be waived.
24. ***Ex turpi causa non oritur actio***, **Latin** "from a dishonorable cause an action does not arise", is a **legal doctrine** which states that a plaintiff will be unable to pursue legal remedy if it arises in connection with his or her own illegal acts.
25. All DOJ officials, their agents, and those men and women associated with the DOJ broke the law. Because they broke the law, they have no credibility on which to base a criminal conviction against Me.
26. Please find attached my December 28, 2017 letters to U.S. Senator Ron Johnson, and to Representatives Trey Growdy and Elijah Cummings which are part of the Congressional record.
27. Take Judicial Notice and judicial cognizance of press reports that General Services Administration Deputy Counsel (GSA) Lenny Loewentritt stated publically that materials "would not be held back in any law enforcement " actions. Yet, the GSA unlawfully held back discovery materials in this case against Me: the materials from the GSA to show the ***proprietary jurisdiction*** of the 500 Pearl Street courthouse, the lease, the deed, the rental payments, the insurance, the investment information and all the other

associated documentary evidence to show the ***proprietary jurisdiction*** of the 500 Pearl Street courthouse. "

From my February 8, 2018 communication:

" This Court can only entertain these proceedings to an extremely limited degree to confirm by taking judicial cognizance and Judicial Notice of this Court's own records, that this Court does not have jurisdiction and does not have authority, as detailed in my February 1, 2018 communication, to proceed in this action against Me and must dismiss, with prejudice in my favor. Ms. Lake is misinformed. My communications with this Court are not an appeal. I am precluded from doing an appeal, because the lower magistrate court record is an intentional fraud.

For example, from April 2016 to August 2016, court clerks Vincent Babino and Daniel Ortiz accepted for filing documents from Me, when, in fact, there was no open case, and, when, in fact, over 130 pages were not filed. The remedy that was supposed to be provided to Me, was to put these documents on-the-record. I re-submitted these documents and, again, they were not put on-the-record. I do not have to prove anything. This Court already admitted and confessed that it did not file documents its clerks accepted for filing, a crime, 18 USC section 2071…

A mandatory hearing in connection with taking Judicial Notice, Federal Rules of Evidence, Rule 201.

--I reiterate and renew my demand for a mandatory hearing in connection with taking Judicial Notice of the records in this Court, Federal Rules of Evidence, Rule 201, and will be adding to the points that I already provided in my February 1, 2018 communication to this Court.

Refusing to provide Me with a mandatory hearing in connection with taking Judicial Notice of the records in this Court is a due process violation, in addition to depriving Me of equal protection…

--More points for Judicial cognizance and Judicial Notice, Federal Rules of Evidence, Rule 201, pursuant to a mandatory hearing. As a due process issue, a hearing is mandatory when requested by Me, a party.

1. Take judicial cognizance and Judicial Notice of the records in your own court that show that on September 1, 2016 Magistrate Henry Pitman proceeded without subject-matter jurisdiction and without authority as 18 USC section 113 states a punishment, not a crime, and that the building at 500 Pearl Street is not within the ***"special maritime and territorial jurisdiction"*** of the United States.
2. Take judicial cognizance and Judicial Notice of the records in your own court that show that on September 1, 2016 Henry Pitman, corum non judice, "not before a judge", proceeded without subject-matter jurisdiction, without authority, threatened Me with arrest such that I have 42 USC section 1983 claims against Henry Pitman against which Pitman has no immunity.

3. Take judicial cognizance and Judicial Notice of the records in your own court that show that because I have 42 USC section 1983 claims against Pitman, against which Pitman has no defense and no immunity, Pitman had a conflict of interest that disqualified him from this case.
4. Take judicial cognizance and Judicial Notice of the records in your own court that show I demanded that Henry Pitman disqualify himself from this case, and that he did not thereby depriving Me of a neutral, objective magistrate and depriving me of a fair trial in criminal contempt of U.S. Supreme Court rulings which are controlling.
5. Take judicial cognizance and Judicial Notice of the records in your own court that show AUSAs Stephanie Lindsay- Lake and Michael Ferrara colluded and conspired with Henry Pitman such that I have 42 USC section 1983 claims against Lake and Ferrara against which Lake and Ferrara have no defense and no immunity as the prosecutors did not obtain the subject-matter jurisdiction of the federal district court to criminally prosecute Me.
6. Take judicial cognizance and Judicial Notice that Henry Pitman ousted the lower magistrate court of jurisdiction by breaking the law, a number of times, including ruling on a Petition for Abatement for Misnomer made as of Right in August 2017.
7. Henry Pitman cannot rule on a Petition for Misnomer made as of Right. The only thing Henry Pitman can do in response to a Petition for Misnomer made as of Right is to comply.
8. It must have some great importance for this Court to style my name in all capital letters. If styling my name according to the rules of English grammar and according to the Law of Persons as I requested meant nothing, then, Henry Pitman simply would have done as I requested without incident.
9. Take judicial cognizance and Judicial Notice that page two of my 2017 Petition for Abatement for Misnomer made as of Right was removed from the court record, a crime in connection with **18 USC section 2071, ousting the lower magistrate court of jurisdiction, and rendering the Southern district of New York a court of no record.**
10. Take judicial cognizance and Judicial Notice of the records of your own court that show that the job of the Pro Se staff attorneys in the Pro Se office is <u>not</u> to represent Me or my case.
11. Take judicial cognizance and Judicial Notice of the records in your own court that the job of the Pro Se staff attorneys in the Pro Se office is to perform a one-time review of newly-filed civil complaints to check for jurisdiction solely, as the federal district courts are courts of limited jurisdiction.
12. Take judicial cognizance and Judicial Notice of the records in your own Court that show that the Pro Se staff attorneys review newly-filed civil complaints only, for jurisdiction, and rarely, if ever, handle a Pro Se criminal defendant's paperwork as if the Pro Se staff attorney was a criminal defense attorney.
13. Take judicial cognizance and Judicial Notice of the records in your own Court that show that this Court uses the deceptive practice of putting the submissions of a Pro Se, Pro Per, Sui Juris litigant into the hands of a so-called "Pro Se Staff Attorney" who then provides the judge(s) with a summary, often inaccurate and misconstrued, in **<u>unauthorized practice of law</u>** , and that this Court does **<u>not</u>** inform the Pro Se, Pro Per Sui Juris litigant of this deceptive practice.

14. Take judicial cognizance and Judicial Notice of the records in your own court that show that when a so-called "Pro Se Staff Attorney" purports to represent Me, behind my back, without my knowledge and consent the so-called "Pro Se Staff Attorney" engages in the **unauthorized practice of law** .
15. Take judicial cognizance and Judicial Notice of the records in your own court that show that the job of the so-called "Pro Se Staff attorneys" is not to represent Pro Se litigants as if the so-called "Pro Se Staff attorneys" were criminal defense attorneys.
16. Take judicial cognizance and Judicial Notice of the records in your own court that show that on July 7, 2016 Magistrate Debra Freeman could give Me no orders because there was no open case against Me in the Southern district of New York.
17. Take judicial cognizance and Judicial Notice of the records in your own Court that show on July 7, 2016 Magistrate Debra Freeman proceeded without jurisdiction and without authority because there was no open case against Me in the Southern district of New York such that I have a 42 USC section 1983 claim against Debra Freeman against which Freeman has no defense and no immunity.
18. Take judicial cognizance and Judical Notice of the records in your own court that show that in May 2016 Magistrate Barbara Moses proceeded without jurisdiction and without authority because there was no open case against Me in the Southern district of New York such that I have a 42 USC section 1983 claim against Barbara Moses against which Moses has no defense and no immunity.
19. Take judicial cognizance and Judicial Notice of the records in your own court that show that on August 10, 2016 Magistrate Debra Freeman proceeded without jurisdiction and without authority because the Information that charged 18 USC section 113 did not obtain the subject-matter jurisdiction of the Court as 18 USC section 113 charges a punishment, not a crime, and the building at 500 Pearl Street is not within ***" the special martime and territorial jurisdiction of the United States"*** such that I have a 42 USC section 1983 claim against Debra Freeman against which Freeman has no defense and no immunity.
20. Take judicial cognizance and Judicial Notice of the records in your own court that show that on August 26, 2016 Magistrate Andrew J. Peck proceeded without jurisdiction and without authority because the Information that charged 18 USC section 113 did not obtain the subject-matter jurisdiction of the Court as 18 USC section 113 charges a punishment, not a crime, and the building at 500 Pearl Street is not within ***" the special martime and territorial jurisdiction of the United States"*** such that I have a 42 USC section 1983 claim against Andrew J. Peck against which Peck has no defense and no immunity.
21. Take judicial cognizance and Judicial Notice of the records in your own court that show that on September 1, 2016 Magistrate Henry Pitman proceeded without jurisdiction and without authority because the Information that charged 18 USC section 113 did not obtain the subject-matter jurisdiction of the Court as 18 USC section 113 charges a

punishment, not a crime, and the building at 500 Pearl Street is not within ***" the special martime and territorial jurisdiction of the United States"*** such that I have a 42 USC section 1983 claim against Henry Pitman against which Pitman has no defense and no immunity.

22. Take judicial cognizance and Judicial Notice of the records in your own court that show that AUSAs Stephanie Lindsay-Lake and Michael Ferrara colluded and conspired with Barbara Moses, Debra Freeman, Andrew J. Peck, and Henry Pitman such that I have claims against Lake and Ferrara against which Lake and Ferrara have no defense and no immunity.
23. Take judicial cognizance and Judicial Notice that subject-matter jurisdiction cannot be waived.
24. Take judicial cognizance and Judicial Notice of the records of your own court that show the so-called Marshal's alert that AUSA Lake attached as an exhibit to Lake's January 18, 2018 paperwork is and was unauthenticated by its author such that it is not competent evidence.
25. Take judicial cognizance and Judicial Notice of the records of your own court that show that the Central Violation ticket charging 18 USC section 111(a)(1) was never filed in the Southern district of New York.
26. Take judicial cognizance and Judicial Notice of the records of your own court that show that the Central Violation ticket charging 18 USC section 111(a)(1) was never used to open a case against Me in the Southern district of New York.
27. Take judicial cognizance and Judicial Notice of the records of your own court that show that the so-called narrative portion of the Central Violation ticket charging 18 USC section 111(a)(1) was never filed in the Southern district of New York.
28. Take judicial cognizance and Judicial Notice of the records of your own court that show both Dean Loren and I were and are parties to the Halleck lawsuit as we made Motions to Intervene as of Right because the decision in the Halleck case impacts us as well as Halleck and no one represented our interests thereby compelling Dean Loren and Me to intervene as of right in the Halleck case.
29. Take judicial cognizance and Judicial Notice of the records of your own court that show AUSA Stephanie Lindsay-Lake did not establish criminal jurisdiction to prosecute Me for any alleged offense committed in the hallways at 500 Pearl Street because Lake failed to show that the United States accepted criminal jurisdiction for the property at 500 Pearl Street from New York State and Lake failed to show that the United States purchased the property at 500 Pearl Street.
30. Take judicial cognizance and Judicial Notice of the records of your own court that show AUSA Lake did not establish criminal jurisdiction to prosecute Me for any alleged offense committed in the hallways of 500 Pearl Street as a property leased by the United States as Lake failed to show the perimeters of the rooms leased by the United States at

500 Pearl Street and failed to show the criminal jurisdiction in the hallways of 500 Pearl Street as a property owned by private owners, and not owned by the United States.

31. Take Judicial cognizance and Judicial Notice of the records of your own court and of the U.S. Attorney's manual that show Homeland Security Officer Samuel is an incompetent witness as the U.S. Attorney's manual states that the criminal jurisdiction at any building is to be provided by the Regional Counsel of the General Services Administration, Carol Latterman.
32. Take Judicial cognizance and Judicial Notice of the records of your own court that show Homeland Security Officer Samuel is not a credible witness because Homeland Security Officer Samuel admitted and confessed on the witness stand, under oath, to breaking the law by arresting Me without a warrant on July 7, 2016, and not bringing Me without unnecessary delay to a magistrate in violation of the Federal Rules of Criminal Procedure, and in violation of my protections under the 4th , 5th and 14th amendments of the federal constitution: protection against unlawful seizures, due process, and equal protection, respectively.
33. Because Homeland Security Officer Samuel admitted and confessed to breaking the law, he has no credibility.
34. Take judicial cognizance and Judicial Notice of the records of your own court that Homeland Security Officer Samuel's testimony that the criminal jurisdiction at 500 Pearl Street is "con-current jurisdiction" is both incompetent and incredible.
35. Homeland Security Officer Samuel is an officer under the control of the DOJ, not Me. "

More points for Judicial Notice, Federal Rules of Evidence, Rule 201:

a. Take judicial cognizance and Judicial Notice that ***United States v Davis*, 726 F3d 357 [2nd Cir 2013]** is a fraud on the Court by court officers, because 18 USC section 113 charges a punishment, not a crime.
b. Take judicial cognizance and Judicial Notice that the government admitted and confessed to the fact that 18 USC section 113 did not charge a crime in my case, USA v. RADIN, docket no: 16-cr-528, by dropping the charge 18 USC section 113 against Me on or about September 23, 2016.
c. Take judicial cognizance and Judicial Notice of how the fraud at the Second Circuit was constructed in USA v. Davis. Davis was not charged with a crime. 18 USC section 113 states a punishment not a crime. From Leixs, **2013 U.S. App. LEXIS 16803:** " …charging Davis with one count of committing an assault resulting in serious bodily injury, in violation of Title 18, United States Code, Section 113(a)(6). That Section provides that ' [w]hoever, *within the special maritime and territorial jurisdiction of the United States*,' commits an '[a]ssault resulting in serious bodily injury' shall be punished by a fine or up to ten years' imprisonment, or both. 18 U.S.C. § 113(a)(6) (emphasis added). " Take judicial

cognizance and Judicial Notice that the statute was misconstrued. The words **"is guilty" (words that are in the statute) were swapped out for the words "commits an" (words that are <u>not</u> in the statute). The first part of the statute was cited in quotes, "xxxxx" , the words "commits an" were inserted, not in quotes, to join the first part of the statute, in quotes, to the second part of the statute, in quotes, "yyyyy" to create the fraud: "xxxxx" commits an "yyyyy". In fact the words "commits an" are not part of the statute.**

d. Take judicial cognizance and Judicial Notice In ***United States v Davis*, 726 F3d 357 [2nd Cir 2013],** defendant was federally charged with assaulting another inmate at the Metropolitan Detention Center, which the government alleged was "within the special maritime and territorial jurisdiction of the United States," an element of that offense. The government offered no evidence other than the testimony of federal corrections officers that the MDC is a federal facility on federal land. At the close of the government's case, the district court denied defendant's motion to dismiss the charge based on the government's failure to prove geographic jurisdiction. The district court denied defendant's motion but also, as defendant's request, refused to take judicial notice that the MDC was a federal facility on federal land, holding that that was a question of fact for the jury. The jury thereafter convicted the defendant of assault as charged.

On appeal, the Second Circuit held that the testimony of the government's witnesses relative to geographical jurisdiction was legally insufficient to support defendant's conviction. The Court affirmed defendant's conviction nonetheless, based on its own taking of judicial notice that the MDC is "within the special maritime and territorial jurisdiction of the United States," ***<u>based on its review of documents reflecting the transfer of title from New York State to the United States of the land on which the MDC it located.</u>*** This was preceded by a detailed examination by the Court of its authority to take judicial notice on appeal of the same fact the district court refused to judicially notice.

e. As in USA v. Davis, take judicial cognizance and Judicial Notice of the fact that the testimony of Homeland Security Officer Samuel regarding the "con-current" criminal jurisdiction of the courthouse located at 500 Pearl Street is legally insufficient to support a criminal conviction against Me.

f. Take judicial cognizance and Judicial Notice of the fact that in ***<u>my case a review of the open public record shows that there are no documents reflecting the transfer of title from New York State to the United States of the land, 500 Pearl Street, on which the federal courthouse sits,</u>*** unlike Davis.

g. **Regarding the lack of subject-matter jurisdiction of the Information, take judicial cognizance and Judicial Notice of the following:** "A federal court is presumed to lack jurisdiction in a particular case unless the contrary affirmatively appears." *Stock West, Inc. v. Confederated Tribes,* 873 F.2d 1221, 1225 (9th Cir.1989) . Limits on federal jurisdiction must neither be disregarded nor evaded. *Owen Equipment & Erection Co. v. Kroger,* 437 U.S. 365, 374, 98 S.Ct. 2396, 57 L.Ed.2d 274 (1978) . A plaintiff bears the burden to establish that subject matter jurisdiction is proper. *Kokkonen,* 511 U.S. at 377, 98 S.Ct. 2396; *see Tosco Corp. v. Communities for BetterEnvironment,* 236 F.3d 495, 499 (9th Cir.2001), plaintiff has burden of proving jurisdiction. When addressing an attack on the existence of subject matter jurisdiction, a court "is not restricted to the face of the pleadings." *McCarthy v. U.S.,* 850 F.2d 558, 560 (9th Cir.1988) . In such a case, a court may rely on evidence extrinsic to the pleadings and resolve factual disputes relating to jurisdiction. *St. Clair v. City of Chico,* 880 F.2d 199,201 (9th Cir.), *cert. denied,* 493 U.S. 993, 110 S.Ct. 541 (1989) ; *Roberts v. Corrothers,* 812 F.2d 1173,1177 (9th Cir.1987) ; *Augustine v. United States,* 704 F.2d 1074, 1077 (9th Cir.1983) ; *Smith v. Rossotte,* 250 F.Supp.2d 1266, 1268 (D.Or.2003), a court "may consider evidence outside the pleadings to resolve factual disputes apart from the pleadings". "The plaintiff always bears the burden of establishing subject matter jurisdiction. In effect, the court presumes lack of jurisdiction until the plaintiff proves otherwise." *Valdez v. U.S.,* 837 F.Supp. 1065, 1067 (E.D.Cal.1993) . "[T]he burden of proof is on the plaintiff to support allegations of jurisdiction with competent proof when the allegations are challenged by the defendant." *O'Toole v. Arlington Trust Co.,* 681 F.2d 94, 98 (1st Cir.1982), as here.

h. Take judicial cognizance and Judicial Notice that subject-matter jurisdiction cannot be waived.

i. Take judicial cognizance and Judicial Notice that as a threshold issue an Information that did not obtain the subject-matter jurisdiction of the magistrate court, as here, cannot be "superseded" or replaced by a so-called "Superseding Information" because the Information itself it void, it is a thing that does not exist. The federal prosecutors cannot replace or "supersede" a thing that does not exist, by operation of law.

Date: February 12, 2018

Lidya Maria Radon

Lidya Maria Radin, sui juris
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USA,
Plaintiff,

v.

RADIN,

Defendant/claimant.
_____/

Docket no: 16-cr-528

NOTICE SETTING A MANDATORY HEARING DATE PURSUANT TO FEDERAL RULES OF EVIDENCE, RULE 201, JUDICIAL NOTICE.

Take Notice that a mandatory hearing in connection with Defendant/claimant's demand for Judicial Notice, Federal Rules of Evidence, Rule 201, will take place on May 14, 2018 at 9:30 AM or as soon thereafter as possible, in Courtroom 905, Judge Richard Joseph Sullivan, Southern district of New York, federal district court, 40 Foley Square, New York, New York 10007.

Date: February 12, 2018

Lidya Maria Radin

Lidya Maria Radin, sui juris
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Mobile: 516-445-4390; email: radin.lidya2@gmail.com

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USA,
Plaintiff,

v.

RADIN,

Defendant/claimant.
_____/

Docket no: 16-cr-528

DECLARATION IN SUPPORT OF NOTICE OF HEARING IN CONNECTION WITH DEFENDANT'S DEMAND TO TAKE JUDICIAL NOTICE, FEDERAL RULES OF EVIDENCE, RULE 201.

I, Lidya Maria Radin, a living woman, falsely accused and wrongfully convicted, declare under penalty of perjury that as per directions given by AUSA Stephanie Lindsay-Lake, I contacted Mr. Robert Sobelman at 212-637-2616 to set a hearing date in connection with my demand for this Court to take Judicial Notice, Federal Rules of Evidence, Rule 201, and that Mr. Sobelman hung up on Me and refused to return my phone call.

Date: February 12, 2018

Lidya Maria Radin

Exhibit A

Example of Southern district of New York taking Judicial Notice without question

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

THE AUTHORS GUILD, INC., Associational Plaintiff, BETTY MILES, JOSEPH GOULDEN, and JIM BOUTON, on behalf of themselves and all other similarly situated, Plaintiffs, v. GOOGLE INC., Defendant.	Civil Action No. 05 Civ. 8136 (DC) **ECF Case**
THE AMERICAN SOCIETY OF MEDIA PHOTOGRAPHERS, INC., GRAPHIC ARTISTS GUILD, PICTURE ARCHIVE COUNCIL OF AMERICA, INC., NORTH AMERICAN NATURE PHOTOGRAPHY ASSOCIATION, PROFESSIONAL PHOTOGRAPHERS OF AMERICA, LEIF SKOOGFORS, AL SATTERWHITE, MORTON BEEBE, ED KASHI, JOHN SCHMELZER, SIMMS TABACK, LELAND BOBBE, JOHN FRANCIS FICARA, and DAVID W. MOSER, on behalf of themselves and all others similarly situated, Plaintiffs, v. GOOGLE INC., Defendant.	Civil Action No. 10 Civ. 2977 (DC) **ECF Case**

DEFENDANT GOOGLE INC.'S REQUEST FOR JUDICIAL NOTICE

Pursuant to Rule 201 of the Federal Rules of Evidence, Defendant Google Inc. ("Google") hereby respectfully requests that, in connection with its Motion to Dismiss filed and served concurrently herewith, the Court take judicial notice of each of the documents listed below.

Under Rule 201(d) courts shall take judicial notice of adjudicative facts if requested by a party and supplied with the necessary information. "A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b).

For the reasons set forth above, Defendants respectfully request this Court to take judicial notice of each of the following documents:

Exhibit 1: Decision from *Association for Information Media and Equipment v. Regents of the University of California*, No. CV 10-9378 CBM (MANx) (C.D. Cal. Oct. 3, 2011) *available at* http://www.aime.org/news.php?download=nG0kWaN9ozI3plMlCGRm.

Exhibit 2: Excerpts taken from Tad Crawford & Kay Murray, *The Writer's Legal Guide: An Authors Guild Desk Reference* (3d ed. 2002).

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Exhibit 3: Excerpts taken from American Society of Media Photographers, *ASMP Professional Business Practices in Photography* 22 (7th ed. 2008).

Dated: December 22, 2011

Respectfully submitted,

By: */s/ Joseph C. Gratz*

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USA,
Plaintiff,

Docket no: 16-cr-528

DECLARATION OF SERVICE

v.

RADIN,

Defendant/claimant.
_____/

I, Lidya Maria Radin, a living woman, falsely accused and wrongfully convicted, declare under penalty of perjury that I served Mr. Robert Sobelman at the U.S. Attorney's Office in the Southern district of New York, New York, New York, 10007, telephone: 212-637-2616, with a copy of my " Demand for Judicial Notice and Mandatory Hearing pursuant to the Federal Rules of Evidence, Rule 201, and my "Notice Setting a Mandatory Hearing date pursuant to the Federal Rules of Evidence, Rule 201, Judicial Notice" by placing a copy of these in the mail.

Date: February 12, 2018

Lidya Maria Radin

Lidia Badin
c/o Friendly
303 W. 10th St, #8A
NY, NY 10014

RECEIVED
2018 FEB 21 AM 10:17
CLERK'S OFFICE
S.D.N.Y.

2018 FEB 22 AM 8:54

USM 5W
SDNY

Pro Se
SM

Pro Se Intake Unit
Pro Se office, Room 200
Southern district of New York
500 Pearl Street
New York, N.Y. 10007